

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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GUCCI AMERICA, INC.,

Plaintiff,

- against -

JENNIFER GUCCI, JENCO DESIGNS, LLC,  
JENNICOR, LLC, JENNY GUCCI COFFEE AND  
GELATO COMPANY, INC., VERATEX, INC.,  
COLLEZIONE DI CASA, INC., E.L. ERMAN -  
DEAD SEA COSMETICS CORP., ELE BRANDS  
ENTERPRISE, INC., GBN WATCH  
COLLECTION, INC., GBN GLOBAL BUSINESS  
NETWORK, EDWARD LITWAK d/b/a ED  
LITWAK & ASSOCIATES, GEMMA GUCCI,  
GEMMA GUCCI COFFEE AND GELATO  
COMPANY, INC., ABC CORPORATIONS 1-10,  
and JOHN DOES 1-10,

Defendants.  
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Civil Action No.  
07 cv 6820 (RMB) (JCF)

**WITNESS STATEMENT OF TERILYN NOVAK  
ON BEHALF OF PLAINTIFF GUCCI AMERICA, INC.**

Terilyn Novak declares as follows under penalty of perjury:

1. I am the eBusiness Director for plaintiff Gucci America, Inc. ("Gucci"), owner of the world famous GUCCI brand name and other well known Gucci trademarks in the United States. In that position, I have worldwide responsibility for sales of GUCCI brand products over the Internet. I have held that position for over three years. I respectfully submit this witness statement as my trial testimony in this action against Defendants Jennifer Gucci, Gemma Gucci and Edward Litwak d/b/a Ed Litwak & Associates.

2. Overall, I have been employed by Gucci America and Guccio Gucci S.p.A. of Italy for 18 years. In that time, I have held a variety of positions, including: Gucci Group eBusiness Executive Producer, Gucci WWD Training Manager and New York inStore Wardrobe Advisor. In all of these positions, I have been directly involved in developing strategies for the sale of GUCCI brand products to consumers. Further, in my position as Training Manager, I had worldwide responsibility for training the sales staff at Gucci-owned retail stores, including teaching them techniques and methods for interacting with Gucci customers. In addition, in all of my positions, I have had regular contact with actual consumers of GUCCI brand products. In my current role, I also deal with Gucci's wholesale partners (who are, in turn, retail outlets for GUCCI products) who have a presence on the Internet.

3. GUCCI is one of the most famous and recognized brand names in the world, and one of the most iconic names in fashion and design. Given the widespread recognition of the GUCCI brand name, in my experience consumers have come to identify Gucci as the exclusive source of any products containing the name GUCCI. *See*, Pl. Tr. Exs. 230 - 234.

4. The GUCCI brand name is synonymous with luxury. According to the Nielsen Company's November 2007 global brands survey, Gucci is the world's "most coveted luxury

brand,” with one in five consumers reporting that they would choose the GUCCI brand over any other luxury goods brand. *See*, Pl. Tr. Ex. 234.

5. Further, for the last three consecutive years, the GUCCI brand has been ranked among the top 50 global brands in Business Week’s annual ranking of the 100 Best Global Brands, in studies conducted by the highly respected market research company, Interbrand Corporation. In 2005, Gucci ranked number 49 among the top 100 Global Brands, and in 2006 and 2007, Gucci ranked 46 out of 100. Some of the brands ranking higher than Gucci were COCO-COLA, MICROSOFT, MERCEDES BENZ, NIKE and AMERICAN EXPRESS, while some ranking lower included COLGATE, NESTLE, MOTOROLA, PANASONIC, SHELL and LEVI’S. Business Week further estimated the value of the GUCCI brand in 2007 at \$7.7 billion dollars worldwide, an 8% increase from 2006. *See*, Pl. Tr. Ex. 234.

6. While Gucci is best known as a producer of women’s accessories, the GUCCI product line comprises a wide range of categories, including men’s and women’s clothing, handbags, women’s and men’s shoes, luggage, small leather goods, jewelry, watches, home and gift items.

7. In my various positions at Gucci, I have become intimately familiar with the Gucci customers, or “clients” as we call them, their buying habits, attitudes towards the GUCCI brand, and varying levels of sophistication. There are, in essence, two types of Gucci clients. The first is the longstanding client who views GUCCI as a ‘lifestyle’ brand, outfitting him or herself in GUCCI clothing and accessories, and purchasing also GUCCI products from other product categories, including gift and home items. This client tends to be a more mature consumer, very knowledgeable about the full range of GUCCI products, and generally discerning in making his or her purchasing decisions. The second category of Gucci clientele, which is a

very large and growing category, includes customers who are first-time or occasional purchasers of GUCCI products. This client, while also knowledgeable about the GUCCI brand, is typically younger and somewhat less sophisticated than the first client, and somewhat less familiar with the overall GUCCI product line, and therefore more susceptible to deception.

8. I have examined copies of the packaging that the Defendants in this action have proposed to use for their licensed products. I am frankly shocked by what I have seen. It is clear to me that Defendants are doing everything in their power to deceive potential consumers into believing that their products are somehow associated with Gucci. This is evident not only from the packaging designs for JENNIFER GUCCI and/or GEMMA GUCCI products, but also the use of Gucci's iconic GREEN-RED-GREEN Stripe Design and our famous REPEATING GG Pattern Design, not to mention the same well-known block letter font we use for our GUCCI mark. *See*, Pl. Tr. Exs. 22, 23, 24, 26, 27, 29, 32, 33, 34, 45, 46, 65, 66, 183, 189.

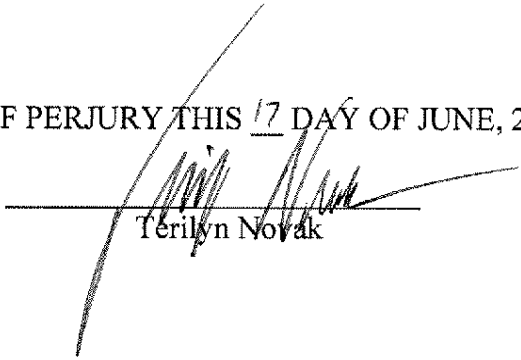
9. In my experience, any consumer familiar with the GUCCI brand, whether the first client or the second client described above, or even the consumer who does not currently purchase GUCCI products but would like to, is highly likely to be deceived by the packaging materials that Defendants have proposed to use.

10. Further, even if Defendants were only using the names GEMMA GUCCI and/or JENNIFER GUCCI, without also using other iconic Gucci designs like the GREEN-RED-GREEN Stripe Design, the REPEATING GG Pattern Design, and the GUCCI font, there still would be a high likelihood that consumers would believe that Defendants' products had been approved and/or sponsored by Gucci. Certainly, the less sophisticated client who sees these products, and doesn't know the GUCCI product line as well, will immediately believe they are associated with Gucci, merely because they carry the GUCCI name, and will purchase them

believing that Gucci is the source of these goods. Gucci's more sophisticated clients are also quite likely to be deceived if they see products like these in the marketplace bearing the GUCCI name; however, even if they are astute enough to realize that ice cream products bearing the name GEMMA GUCCI or bedding products bearing the name JENNIFER GUCCI were not licensed or approved by Gucci, the mere fact that Gucci is allowing such products to be sold would cause these customers to think less of Gucci and its brand image, to the point where they might even consider switching their allegiance to one of Gucci's competitors. In the luxury brand category, image is everything, and anything that diminishes the image of the brand in the eyes of the consumer will cause him or her to lose confidence in the brand.

11. While I have not done any special studies or market research to support my conclusions, I am a highly trained Gucci employee, with extensive experience in Gucci's retail operations and among its retail clientele. My job requires me to be expert as far as their habits, attitudes and characteristics. My conclusions, therefore, are based on my near daily, hands-on experiences over nearly 20 years in dealing directly with Gucci clients.

DECLARED UNDER PENALTY OF PERJURY THIS 17 DAY OF JUNE, 2008

  
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Terilyn Novak